

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PAUL SCOTT KLEIN,

Plaintiff,

v.

SEAN KIM, *et al.*,

Defendants.

Case No. 2:08-cv-1475-LDG (LRL)

**ORDER**

Previously, the Magistrate Judge denied (#44) plaintiff Paul Klein's Motion for Order for U.S. Marshals to Serve Defendants Cheryl Burson, Eric Burson and Roy Plumlee and his Motion to Extend 120-Day Service Requirement. The Magistrate Judge further recommended that the Court grant the Motion to Dismiss (#28) and to dismiss Cheryl Burson, Eric Burson and Roy Plumlee as they had not been timely served.

Klein has filed an objection (#45) to the recommendation, and the served defendants have filed a response (#46). He also moved to strike the motion to dismiss (#32).

Despite untimely serving Plumlee, and being denied an extension of time to serve him, Klein has also moved for entry of a clerk's default (#33) as to Plumlee.

1 The Magistrate Judge's recommendation to dismiss the three unserved defendants  
2 arises from the fact that Klein failed to timely serve them within 120 days, and that he  
3 lacked good cause for this failure. The court agrees. Accordingly,

4 THE COURT **ORDERS** that the Motion to Dismiss (#28) is GRANTED;

5 THE COURT FURTHER **ORDERS** that the Paul Klein's Motion to Strike (#32) the  
6 Motion to Dismiss is DENIED;

7 THE COURT FURTHER **ORDERS** that Paul Klein's Motion for Entry of Clerk's  
8 Default (#33) as to Roy Plumlee is DENIED as moot.

9 THE COURT FURTHER **ORDERS** that Paul Scott Klein's Complaint is DISMISSED  
10 as to defendants Cheryl Burson, Eric Burson, and Roy Plumlee.

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12 DATED this 1 day of July, 2009.

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15 Lloyd D. George  
16 United States District Judge  
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